

lation, order, or proclamation pursuant thereto, to enter and continue in military service, and

(b) Any period of military service in a war period, providing the individual entered military service in such war period, and

(c) Any period of military service immediately following a war period, whether or not such service was entered upon voluntarily, and prior to discharge from such service or reenlistment therein, providing the individual entered military service in such war period, and

(d) Any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

[Board Order 55-89, 20 F. R. 3707, May 27, 1955]

### § 209.13 War period.

A war period begins on the date on which the Congress of the United States declared war, or on the date as of which the Congress of the United States declared a state of war to have existed, or on the date on which war was declared by one or more foreign states against the United States, or on the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states, or on the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government, whichever date is the earliest. A war period ends on the date on which hostilities shall have ceased.

(a) *Spanish-American War.* The war period of the Spanish-American War began April 21, 1898, and ended August 13, 1898.

(b) *Philippine Insurrection.* The war period of the Philippine Insurrection began February 4, 1899, and ended April 27, 1902.

(c) *World War I.* The war period of the World War began April 6, 1917, and ended November 11, 1918.

(d) *World War II.* The war period of World War II began December 7, 1941, and ended December 31, 1946.

[Board Order 55-89, 20 F.R. 3707, May 27, 1955]

### § 209.14 Verification of military service claimed.

Military service claimed, to be credited, shall be verified to the satisfaction of the Board by the following proof:

(a) An original certificate of discharge or release to inactive duty from a branch of the armed forces that shows the beginning and ending dates of an individual's active military service; or a certified copy of such a certificate made by the State, county or municipal agency or department in which the original certificate is recorded; or

(b) A certification from a branch of the armed forces that shows the beginning and ending dates of an individual's active military service; or

(c) A photocopy of the document described in paragraph (a) or (b) of this section.

[Board Order 59-189, 24 F.R. 9002, Nov. 5, 1959]

## PART 210—EXECUTION AND FILING OF AN APPLICATION FOR AN ANNUITY

Sec.

210.1 Statutory provisions.

210.2 Application to be filed.

210.3 Filing date.

210.4 Signature on application form.

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210.12 Effect of cancellation.

210.13 Applicant's file to be confidential.

**AUTHORITY:** The provisions of this Part 210 issued under secs. 2, 10, 50 Stat. 309, as amended, 314, as amended; 45 U.S.C. 228b, 228j.

### § 210.1 Statutory provisions.

An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto) \* \* \* (Sec. 2(c), 50 Stat. 310; 45 U.S.C. 228b(c))

[4 F.R. 1485, Apr. 7, 1939]

### § 210.2 Application to be filed.

(a) No individual, irrespective of his qualifications, shall receive an annuity

unless, on or before the date of his death, his duly executed application upon such form as the Board may from time to time prescribe is filed with Board: *Provided, however*, That a claim or application filed with the Social Security Administration, whether before or after the adoption of this section, for monthly insurance benefits under title II of the Social Security Act (except an application for a disability insurance benefit where such benefit was terminated before the 120th month of railroad service was performed), based in whole or in part on service of an employee for an employer under the Railroad Retirement Act, shall be considered an application for an annuity duly filed with the Board.

(b) Where an individual has notified the Board in writing of his intention or desire to file an application for an annuity, but has been deterred to his detriment by action of the Board or of its employees from filing an application upon the form prescribed by the Board, such writing of the individual, if subsequently supplemented by an application duly executed upon the prescribed form, shall be considered by the Board as a proper and sufficient application within the meaning of paragraph (a) of this section: *Provided, however*, That:

(1) The action of the Board or of its employees in deterring the individual from filing an application on the prescribed form shall have consisted of:

(i) Failure to advise the individual properly as to the necessity for filing an application on such prescribed form; or

(ii) Failure to furnish the individual with the appropriate application form; or

(iii) Furnishing of correct information that under an existing ruling (which was subsequently reversed during the individual's lifetime) entitlement was precluded: *And further provided*, That:

(2) The individual, upon being correctly advised by the Board as to the necessity for filing an application on the prescribed form, or as to a changed ruling affecting his entitlement, and/or upon being supplied with such prescribed form, shall file said form with the Board during his lifetime and within 3 months after the date on which such correct advice was given him and/or such form was mailed to him (whichever is the later), or within such additional time as the Board may deem reasonable. (For regulations governing applications for

insurance annuities and lump sums for survivors, see Part 237 of this chapter.)

[12 F.R. 1136, Feb. 19, 1947, as amended by Board Order 60-7, 25 F.R. 864, Feb. 2, 1960; Board Order 62-33, 27 F.R. 3321, Apr. 7, 1962]

### § 210.3 Filing date.

An application, filed in the manner and form prescribed in § 210.2, shall be considered filed with the Board on the date that it is received at an office of the Board, or the date that it is delivered to a field employee of the Board specifically authorized by a regional director to receive applications in the area where delivery is made, whichever date is earlier; or, in a case of an applicant who is not residing in the United States, the date his application is received at an office maintained outside the United States by the United States foreign service; or, in a case in which a claim or application filed with the Social Security Administration is, by virtue of § 210.2, an application for an annuity filed with the Railroad Retirement Board, the date on which such claim or application was filed with the Social Security Administration: *Provided, however*, That if in the adjudication of an application for an annuity it is determined that the applicant died on a day observed by the Board as a non-work day and that his application was received through the mail at an office of the Board on the first business day following such non-work day, the application shall be deemed to have been filed with the Board on such non-work day if it is established to the satisfaction of the Board that the application was mailed in sufficient time to have been received by the Board in the ordinary course of the mail on such non-work day had that day been a business day.

[Board Order 62-33, 27 F.R. 3321, Apr. 7, 1962]

### § 210.4 Signature on application form.

The application form shall be signed personally by the applicant in his usual manner: *Provided, however*, That if the applicant is unable to sign his name because of physical inability or illiteracy, he shall then make his mark (X) and a witness shall affix the applicant's name. In every case the signature or mark shall either be executed and authenticated in such manner as the form provided may indicate or shall be executed before and authenticated by an employee of the Board duly designated and authorized to perform such services. In the event that the signature or any written portion of

the application form is, within the judgment of the Board, substantially illegible or of doubtful authenticity, or, if in the judgment of the Board there are substantial omissions in the application form, the Board may require its reexecution or correction: *Provided, further*, That an application form that is re-executed because the previous form was either not signed or improperly signed shall be returned and shall be received by the Board within 30 days after notice to correct such deficiency is mailed to the applicant; otherwise, the filing date of the application shall be the date on which such reexecuted application form is received by the Board.

[Board Order 60-7, 25 F.R. 864, Feb. 2, 1960]

#### § 210.5 Presumptions from application.

The receipt by the Board of a duly executed application form on or prior to the date of death of the applicant in the absence of evidence to the contrary shall be conclusive evidence of the filing thereof by the applicant or in his behalf by his authority.

[4 F.R. 1485, Apr. 7, 1939]

#### § 210.6 Application filed with the Social Security Administration.

(a) *By an individual.* (1) The date on which an individual files a claim or application with the Social Security Administration for old-age or disability insurance benefits based on less than ten years (120 months) of railroad service shall be considered the date on which an application is filed with the Board if the individual subsequently acquires 120 months of railroad service.

(2) In any such case, receipt of the following information from the Social Security Administration shall denote the filing of an application under the Railroad Retirement Act: the name and address of the applicant; the name of each employer involved who may be covered by the Railroad Retirement Act; the amount of benefits, if any, paid by the Social Security Administration on the basis of service with such employers; and the date the claim or application was filed with the Social Security Administration.

(3) The payments made by the Social Security Administration on the basis of compensation that had been used as wages are not erroneous for months prior to the time the individual acquired his 120th month of railroad service; such

payments, however, if any, made for and subsequent to the individual's 120th month of railroad service shall be recovered from accrued annuities under the Railroad Retirement Act.

(b) *By an individual's spouse.* (1) The date on which the spouse of the individual described in paragraph (a) of this section files a claim or application with the Social Security Administration for a wife's or husband's insurance benefit, shall be considered the date on which the spouse files an application with the Board for a spouse's annuity.

(2) In any such case, receipt of the following information from the Social Security Administration shall denote the filing of a spouse's application under the Railroad Retirement Act: The name and address of the individual's spouse; the amount of insurance benefits, if any, paid by the Social Security Administration to the individual's spouse; and the date the individual's spouse filed the claim or application with the Social Security Administration.

(3) The payments, if any, made by the Social Security Administration to such individual's spouse for and after the individual's 120th month of railroad service shall be recovered from accrued spouse's annuities under the Railroad Retirement Act.

[Board Order 60-7, 25 F.R. 864, Feb. 2, 1960; 25 F.R. 1398, Feb. 17, 1960 as amended by Board Order 62-33, 27 F.R. 3322, Apr. 7, 1962]

#### § 210.7 Application where individual is incompetent.

In the event that an individual is mentally incompetent, a person recognized by the Board pursuant to § 266.5 of this chapter, a duly appointed guardian, conservator, committee, or other legal representative shall execute and file the application on his behalf. In the event that the mentally incompetent individual has himself filed an application form the person recognized by the Board pursuant to § 266.5 of this chapter, the duly appointed guardian, conservator, committee, or other legal representative shall execute and file another application form and when this has been done, the filing date of the application may be the date on which the first application form was received by the Board.

[Board Order 45-204, 10 F.R. 7159, June 15, 1945]

### § 210.8 When an application is considered fully exhausted.

(a) An application for an annuity shall be considered fully exhausted on the date of notice of the initial decision denying the applicant's claim if the notice of decision was dated after September 7, 1961, and was not appealed as prescribed in Part 260 of this chapter. If a timely appeal is taken from such an initial decision, the annuity application shall be considered fully exhausted on the date of notice of the decision of the Appeals Council unless a timely appeal from that decision is filed with the Board. Where such an appeal is filed, the annuity application shall be considered fully exhausted on the date of notice of the decision of the Board.

(b) After an application is considered fully exhausted, the individual shall be entitled to receive an annuity only upon the filing of a new application in the manner and form prescribed in this part.

[26 F.R. 9071, Sept. 27, 1961]

### § 210.10 Alteration of application.

An application filed with the Board cannot be changed or altered in any respect except by the applicant or by his duly authorized agent or guardian, conservator or committee. The authority of an agent or guardian, conservator or committee to change or alter an application shall be evidenced in such manner and to the extent required by the Board. [4 F.R. 1486, Apr. 7, 1939]

### § 210.11 Cancellation of an application.

An individual (or a person who is authorized to act in his behalf pursuant to § 266.4 or § 266.5 of this chapter) may cancel his previously filed application under the following conditions:

(a) *Before the annuity is awarded.* An application may be canceled before the annuity is awarded if (1) he files a written request for cancellation, (2) such individual is alive at the time the request for cancellation is filed, and (3) the request for cancellation is filed on or before the date the annuity is awarded.

(b) *After the annuity is awarded.* An application may be canceled after the date the annuity is awarded if (1) the conditions enumerated in subparagraphs (1) and (2) of paragraph (a) of this section are met, (2) any other person whose entitlement would be rendered erroneous by such cancellation consents in writing thereto, and (3) there is repay-

ment of the annuity or annuities previously paid because of such application. Recoupment of the annuity or annuities previously paid may be effected by one or more of the methods described in §§ 255.5, 255.6, and 255.8 of this chapter. [Board Order 65-36, 30 F.R. 4061, Mar. 27, 1965]

### § 210.12 Effect of cancellation.

The effect of the cancellation of an individual's application shall be the same as though he had not filed an application, and in the event of his death there are no greater rights than if he had never filed. The individual whose application has been canceled may reapply by filing a new application with the Board.

[Board Order 62-33, 27 F.R. 3322, Apr. 7, 1962]

### § 210.13 Applicant's file to be confidential.

(See § 262.16.)

[4 F.R. 1486, Apr. 7, 1939]

## PART 214—ANNUITY BEGINNING DATE

Sec.

- 214.1 Statutory provisions.
- 214.2 Annuity beginning date.
- 214.3 Beginning date in month of applicant's sixtieth, sixty-second or sixty-fifth birthday.
- 214.4 Clarification of beginning date.
- 214.5 Effect of death.
- 214.6 Beginning date following cancellation of application.
- 214.7 Effect of service performed through or after designated beginning date.
- 214.8 Applicant's general right to change date.
- 214.10 Cessation of service to a local lodge or division.

**AUTHORITY:** The provisions of this Part 214 issued under sec. 10, 50 Stat. 314, as amended; 45 U.S.C. 228j.

### § 214.1 Statutory provisions.

An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but—

(1) Not before the date following the last day of compensated service of the applicant, and

(2) Not more than twelve months before the filing of the application. (Section 2 (c), 50 Stat. 310, as amended; 45 U. S. C. 228b.)

Any individual who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier